

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DIVISIONS OF LAND EXEMPT
5 FROM SUBDIVISION REVIEW; PROVIDING ADDITIONAL REQUIREMENTS FOR TRANSFERS OF LAND
6 TO IMMEDIATE FAMILY MEMBERS; PROHIBITING CERTAIN CRITERIA THAT A LOCAL GOVERNING
7 BODY MAY CONSIDER WHEN DETERMINING IF AN EXEMPTION IS AN ATTEMPT TO EVADE THE
8 SUBDIVISION AND PLATTING ACT; AND AMENDING SECTION 76-3-207, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Review of family transfer exemptions.** (1) When evaluating a claimed
13 division of land under 76-3-207(1)(b), the governing body may not consider the following criteria to determine
14 whether or not the requirements of this chapter apply to the division of land:

- 15 (a) the age of an immediate family member as defined in 76-3-103;
- 16 (b) the claimant's intended use of the property;
- 17 (c) whether the division could be accomplished by a different exemption suitable for the intended
18 use;
- 19 (d) whether a transfer of land by one immediate family member to another is followed by a
20 subsequent transfer by one immediate family member to another on the same tract of land;
- 21 (e) whether the landowner intends to divide land for the purpose of a gift or sale to the landowner's
22 spouse or minor children;
- 23 (f) whether the remaining tract of land is intended to be sold for the purpose of financing
24 construction on a tract of land gifted and transferred to a spouse;
- 25 (g) whether there is a declared intent on the occupancy or use of the transferred tract of land by
26 receiving family members;
- 27 (h) whether the family member intends to transfer or sell the newly divided land; and
- 28 (i) the nature of a claimant's business, including whether the claimant is in the business of

1 construction or dividing, developing, or selling land.

2 (2) For a division of land allowed under 76-3-207(1)(b):

3 (a) a parent acting as a guardian or conservator of a minor child may manage the interest in the
4 division of land on behalf of the child and not on behalf of the parent;

5 (b) the governing body may not prohibit a division of land allowed in 76-3-207(1)(b) on tracts of
6 land that were previously approved for division under 76-3-207(1)(b);

7 (c) transfers of land must be approved for each eligible family member provided that the division is
8 not a clear and convincing evasion of this chapter; and

9 (d) the governing body has the burden of proof for a denial of a division of land.

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11 **Section 2.** Section 76-3-207, MCA, is amended to read:

12 **"76-3-207. Divisions or aggregations of land exempted from review but subject to survey**

13 **requirements and zoning regulations -- exceptions -- fees for examination of division.** (1) Except as
14 provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter,
15 the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot
16 created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying
17 requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to
18 applicable zoning regulations adopted under Title 76, chapter 2:

19 (a) divisions made outside of platted subdivisions for the purpose of relocating common boundary
20 lines between adjoining properties;

21 (b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each
22 county to each member of the landowner's immediate family;

23 (c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in
24 which the landowner enters into a covenant for the purposes of this chapter with the governing body that runs
25 with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the
26 provisions of 76-3-211;

27 (d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

28 (e) divisions made for the purpose of relocating a common boundary line between a single lot

within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1), within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) Pursuant to [section 1], ~~The~~ the governing body may examine a division or aggregation of land to determine whether or not the requirements of this chapter apply to the division or aggregation and may establish reasonable fees, not to exceed \$200, for the examination."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, part 2, and the provisions of Title 76, chapter 3, part 2, apply to [section 1].

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